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Attorneys for Defendants, ARP COMPUTER SOLUTIONS, INC., a  
 California Corporation dba Computer Circulation Center and SALAH  
 SOLTANI

UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF CALIFORNIA

MICROSOFT CORPORATION, a Washington)	<b>Case No.</b>
Corporation,	<b>08-CV-1026-WQH-JMA</b>
	)
Plaintiff,	)
	<b>ANSWER TO COMPLAINT</b>
	)
v.	<b>(DEMAND FOR JURY)</b>
	)
ARP COMPUTER SOLUTIONS, INC., a)	
California Corporation d/b/a)	<b>Complaint filed: June 9, 2008</b>
COMPUTER CIRCULATION CENTER; and)	
SALAH SOLTANI, an individual,	)
	)
Defendants.	)
	)

COME NOW, DEFENDANTS, ARP COMPUTER SOLUTIONS, INC., a  
 California Corporation dba Computer Circulation Center and SALAH  
 SOLTANI, and answer the Complaint on file herein for themselves  
 alone and no others as follows:

**I.**

ANSWERING PARAGRAPHS 2, 4, 5, 6, and 10, these answering  
 defendants admit the allegations contained therein.

**II.**

ANSWERING PARAGRAPHS 1, 7, 8, 8a, 8b, 8c, 8d, 8e, 8f, 8g, 9,  
 9a, 9b, 9c, 9d, 9e, 9f, 12, 19, 28, 29, and 39, these answering

1 Defendants lack sufficient information and belief upon which to  
2 admit or deny the allegations contained therein and on that basis,  
3 deny.

4 **III.**

5 ANSWERING PARAGRAPHS 3, 11, 13, 14, 15, 16, 17, 20, 21, 22, 23,  
6 24, 25, 27, 30, 31, 32, 33, 34, 35, 36, 37, 40, 41, 42, 43, 45, 46,  
7 47, 49, 50, 51, 52, 54, 55, and 56, these answering defendants deny  
8 the allegations contained therein.

9 AS AND FOR A SEPARATE AND DISTINCT FIRST AFFIRMATIVE DEFENSE  
10 TO THE COMPLAINT, these answering defendants allege that any alleged  
11 infringement, if at all, was done by mistake or inadvertence.

12 AS AND FOR A SEPARATE AND SECOND AFFIRMATIVE DEFENSE, these  
13 answering Defendants state that they have never knowingly installed  
14 any infringing program on any computer sold to the general public.

15 AS AND FOR A SEPARATE AND THIRD AFFIRMATIVE DEFENSE, these  
16 answering Defendants have never knowingly infringed upon Microsoft  
17 Corporation's patents or licenses.

18 AS AND FOR A SEPARATE AND FOURTH AFFIRMATIVE DEFENSE, these  
19 answering Defendants allege that they have not knowingly engaged in  
20 unfair competition.

21 AS AND FOR A SEPARATE AND FIFTH AFFIRMATIVE DEFENSE, these  
22 answering Defendants allege that all acts of any defendant were  
23 without knowledge and thus not willful or intentional and thus not  
24 subject to enhanced damages.

25 AS AND FOR A SEPARATE AND SIXTH AFFIRMATIVE DEFENSE, these  
26 answering Defendants allege that all installations of Microsoft  
27 products were done pursuant to licenses obtained from plaintiffs'  
28 authorized distributors.

1 AS AND FOR A SEPARATE AND SEVENTH AFFIRMATIVE DEFENSE, these  
2 answering Defendants allege that the complaint on file fails to  
3 state facts sufficient to constitute a cause of action.

4 AS AND FOR A SEPARATE AND EIGHTH AFFIRMATIVE DEFENSE, these  
5 answering Defendants allege that the technology and material use in  
6 the products marketed by these answering defendants are within the  
7 public domain, and are not sufficiently unique so as to be subject  
8 to protection by patent or trademark.

9 AS AND FOR A SEPARATE AND NINTH AFFIRMATIVE DEFENSE, these  
10 answering Defendants allege that any infringement or delusion was  
11 inadvertent and innocent.

12 AS AND FOR A SEPARATE AND TENTH AFFIRMATIVE DEFENSE, these  
13 answering Defendants reserve the right to allege any additional  
14 affirmative defenses not presently known or realized.

15 WHEREFORE, these answering Defendants pray for judgment as  
16 follows:

- 17 1. That plaintiff take nothing by way of its action;
- 18 2. That Defendants be awarded reasonable cost of suit  
19 incurred herein;
- 20 3. That Defendants be awarded attorney fees in defending  
21 this action and;
- 22 4. For such other and further relief as this court may deem  
23 just and proper.

24 Dated: July 21, 2008

SHIFFLET, KANE & KONOSKE, LLP

25 By: /s/ Gregory P. Konoske

26 Gregory P. Konoske, Esq.  
27 Attorney for Defendants,  
28 ARP COMPUTER SOLUTIONS, INC. and  
SALAH SOLTANI  
[gkonoske@shiffletlaw.com](mailto:gkonoske@shiffletlaw.com)

**DEMAND FOR JURY**

Pursuant to FRCP 38(b) and L.R. 38.1, these answering Defendants demand Trial by Jury on those issues to which there is a legal right to Trial by Jury.

Dated: July 21, 2008 SHIFFLET, KANE & KONOSKE, LLP

By: /s/ Gregory P. Konoske  
Gregory P. Konoske, Esq.  
Attorney for Defendants,  
ARP COMPUTER SOLUTIONS, INC. and  
SALAH SOLTANI  
[gkonoske@shiffletlaw.com](mailto:gkonoske@shiffletlaw.com)

**MICROSOFT CORPORATION v. ARP COMPUTER SOLUTIONS, INC., ET AL.**  
 UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF CALIFORNIA  
 Case No.: 08-CV-1026-WQH-JMA

**PROOF OF SERVICE**

I, GREGORY P. KONOSKE, declare as follows:

I am over the age of eighteen years and not a party to the within entitled action. I am employed in the County of San Diego, State of California, within which county and state the subject mailing occurred. My business address is 16880 West Bernardo Drive, Suite 250, San Diego, California 92127.

On **July 21, 2008**, I served the following document(s) described as: **ANSWER TO COMPLAINT (DEMAND FOR JURY)** on the interested parties in this action by placing a true copy thereof as follows:

<p><b>Audra M. Mori, Esq.</b>  <b>Katherine M. Dugdale, Esq.</b>  <b>Jennifer N. Chiarelli, Esq.</b>  <b>PERKINS COIE, LLP</b>  <b>1620 26<sup>th</sup> Street, Sixth Floor</b>  <b>South Tower</b>  <b>Santa Monica, CA 90404</b></p>	<p><b>Attorney for Plaintiff,</b>  <b>MICROSOFT CORPORATION</b>  <b>Tel: (310) 788-9900</b>  <b>Fax: (310) 788-3399</b></p>
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☐ **BY MAIL.** I am readily familiar with the business practices at my place of business for collection and processing of correspondence for mailing with the United States Postal Service and the correspondence shall be deposited with the United State Postal Service this same day in the ordinary course of business pursuant Code of Civil Procedure §1013(a).

☐ **BY PERSONAL DELIVERY.** I caused each envelope to be hand delivered to the each addressee leaving said envelope with either the addressee directly or another person at that address authorized to accept service on the addressee's behalf.

☐ **BY FACSIMILE TRANSMISSION.** The counsel or interested party authorized to accept service, by whose name an **asterisk (\*)** is placed, was also forwarded a copy of said document(s) by facsimile transmission at the telefax number corresponding with his name and address on the attached service list.

☒ **BY ELECTRONIC SERVICE VIA CM/ECF SYSTEM.** In accordance with the electronic filing procedures of this Court, service has been effected on the aforesaid party(ies) above, whose counsel of record is a registered participant of CM/ECF, via electronic service through the CM/ECF System.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on this 21<sup>st</sup> day of July at San Diego, California.

/s/ Gregory P. Konoske  
 GREGORY P. KONOSKE